

**EXHIBIT “A”**

2A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, ) CIVIL NO. CV01-00446  
Plaintiff, ) SPK LEK  
vs. ) (Copyright)  
FLEMING COMPANIES, INC., )  
aka FLEMING FOODS, INC., )  
aka FLEMING, DOE )  
INDIVIDUALS 1-50 AND DOE )  
PARTNERSHIPS, )  
CORPORATIONS AND OTHER )  
ENTITIES 1-20 S 1-50, )  
Defendants. )  
-----)

DEPOSITION OF MARK DILLON

Taken on behalf of the Plaintiff pursuant to  
Notice, on Monday, March 25, 2002, commencing at  
9:00 a.m., at the Law Offices of Lynch Ichida  
Thompson Kim & Hirota, 1132 Bishop Street, Suite  
1405, Honolulu, Hawaii 96813.

1 APPEARANCES:

2

For Plaintiff Wayne Berry:

3

TIMOTHY J. HOGAN, ESQ.  
Lynch Ichida Thompson Kim & Hirota  
1132 Bishop Street, Suite 1405  
Honolulu, Hawaii 96813  
(808) 528-0100

4

5

For Defendant Fleming Companies, Inc., aka  
Fleming Foods, Inc., aka Fleming:

6

7

8

9

10

11

LEX R. SMITH, ESQ.  
Kobayashi Sugita & Goda  
First Hawaiian Center  
999 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813  
(808) 539-8700

12

13

For Defendant Hawaiian Express Service,  
Inc.:

14

15

16

17

ROY J. TJIOE, ESQ.  
Goodsill Anderson Quinn & Stifel  
Alii Place, Suite 1800  
1099 Alakea Street  
Honolulu, Hawaii 96813  
(808) 547-5600

18

Also Present: Wayne Berry

19

20

21

22

23

24

25

-000-

1       finally, I realized the problem was between the  
2       local service provider and the -- I'm sorry --  
3       the local telephone company and the Internet  
4       access provider; that they were different, two  
5       different companies, and they weren't  
6       communicating. And as a result, the circuit  
7       never got up and functioning.

8           Q     Did you ever, actually, physically look  
9       at the computer system they had in La Mirada?

10          A     Yeah, only Roger Perez's system. That  
11       was the one -- That was the computer that would  
12       be using the Internet access.

13          Q     Okay. What do you understand regarding  
14       Hawaiian Express Service, HEX, and its  
15       communications or contacting, through computer  
16       systems, Fleming in Kapolei? What, if anything,  
17       can they do through their system, to your  
18       knowledge, to contact Fleming in Kapolei?

19          A     Well, they can dial -- Once connected  
20       to the Internet, they can start PCAnywhere and  
21       access one of two machines on the Logistics  
22       Network in Kapolei to update the database with  
23       data about case cube and weight received and  
24       about appointments made with vendors for delivery  
25       of product.